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October 30, 1972

MEMORANDUM FOR:

DR. HENRY A. KISSINGER

SUBJECT:

Lacunae in the Draft Agreement

I. AREAS NEEDING CLARIFICATION

1. The current draft entitled, "Agreement on Ending the War and Restoring Peace in Vietnam," contains the skeletal outline of an agreement which, if implemented with reasonable rigor, could produce the peace with honor long sought by President Nixon and his two predecessors in that office. A close analysis of the current text in light of the amply documented record of Vietnamese Communist behavior and performance over the eighteen years since Hanoi signed the Geneva Accords of 1945 and over the decade that has elapsed since Hanoi signed the July 1962 "Declaration on the Neutrality of Laos," nonetheless indicates that a prudent concern for allied interests -- including those of the US as well as those of the GVN -- would suggest the desirability of making some modifications in the current draft. While these indicated changes would not, and should not, alter the present draft's basic structure of essential character, they would entail editorial emendation of some of the language now contained therein plus the addition of some language not now present.

2. To call the present draft "a good beginning" would be a gross understatement. It is clearly much more than that. Indeed, it is an historic structure that is almost complete. Yet, despite its many admirable aspects, from the standpoint of allied interests the present draft has two sets of serious defects. Overall and throughout, there is a basic imbalance: the responsibilities and performance obligations of the allied side, particularly US, are spelled out with far greater clarity, precision and rigor than the Communist side's responsibilities and performance obligations, especially Hanoi's. In all key areas (e.g., troop withdrawal, non-interference, acceptance of future political developments), our commitments are explicit and reasonably concrete. Hanoi's commitments, by contrast, are generally couched in broad language that is allusive or elliptical, vague and often ambiguous. This linguistic imbalance, in turn, sets up a potential situation in which our compliance or non-compliance with our rather precisely defined obligations will be a relatively easy matter to check. By contrast, Hanoi's

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future compliance or non-compliance with its much more generally phrased obligations will be far harder to check. The verification process involved where Hanoi is concerned will be much more open to debates whose conclusions will be greatly influenced by the weight one chooses to assign to the various possible interpretations, denotations or connotations of the vague and general language in which Hanoi's obligations are described.

3. Secondly, there are four areas in which the language of the present draft would cause (and clearly has caused) legitimate concern to the GVN and should cause similar concern to us. These areas are the ones covering (1) North Vietnamese Army personnel and units now in South Vietnam, (2) the role and nature of the tripartite "National Council of National Reconciliation and Concord", (3) South Vietnam's right to existence as an independent sovereign state, and (4) the arrangements for monitoring both sides' compliance with the provisions of any final agreement once the latter is signed.

4. North Vietnamese Army Forces. Hanoi will, of course, strongly resist any endeavor to incorporate any reference to the 195,000-odd North Vietnamese Army troops -- including twelve NVA line divisions -- now physically present in South Vietnam. For one thing, Hanoi has never been willing to admit, formally or publicly, that there are any NVA troops in South Vietnam. Furthermore, Hanoi's whole political position and its pursuit of its basic political objectives are keyed to the concept that "Vietnam is one," hence NVA troops in South Vietnam are, by definition, not "foreign." The GVN, however, simply cannot ignore the presence on what it insists is its sovereign territory of close to 200,000 hostile troops that, by the definition of political reality essential to Saigon's vital interests, are part of an invading army that is unarguably "foreign." The GVN also can, and will, contend that both its description of NVA forces as foreign invaders and its opposition to their continued presence on South Vietnamese territory are completely consistent with the heretofore unvarying policy of the United States Government, frequently and forcefully enunciated by President Kennedy, President Johnson and President Nixon. The GVN, therefore, would find it almost impossible to acquiesce in a comprehensive peace agreement which turned a blind eye to the presence of NVA forces in South Vietnam. Inevitable GVN sensitivities in this sphere also will be intensified and reinforced by the current draft's provisions in the other three key areas of concern here discussed.

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5. The "National Council of National Reconciliation and Concord" (NCNRC). President Thieu can be flexible about many things, but one point on which it is politically impossible for him to bend without thereby fatally weakening his and his government's domestic political position is that of accepting the imposition of a "coalition government" by foreign fiat. We take the position, reinforced by the oral comments of Hanoi's negotiators in private session, that the tripartite NCNRC is a figleaf to mask a major North Vietnamese concession involving Hanoi's virtual abandonment of the political claims of its southern organization. Whatever be the private comments of its negotiators, however, Hanoi's line on the NCNRC passed to its Party cadres and its public position on the Council's role is quite different (Pham Van Dong has termed it a "three-sided coalition of transition"). The modifications needed to adjust the draft's language on this point are few but in the GVN's eyes they are of great importance. One change the GVN will almost certainly insist is essential is the employment of the Vietnamese term "hanh chinh" at those places in the authoritative Vietnamese text where the authoritative English text uses the phrase "administrative structure" suggested by Hanoi. (As explained in the note sent to you on September 28, the term now used in the Vietnamese text can carry the connotation of "authority" or even "government." The term "hanh chinh" has no such connotation.)

6. South Vietnam's Right to Exist. The language on reunification which appears at at least three separate places in the current draft (Article 1, Article 10 and Article 15-d) may strike us, and the rest of the world, as "motherhood language" enunciating the kind of pious principle it is always safe to be publicly for and never necessary to be against. Hanoi and Saigon, however, will see this language in quite a different light. The GVN, with reason, will probably regard the present language as a cunningly baited trap; for if strictly and literally interpreted, that language eliminates any South Vietnamese government's right to exist. The unamplified endorsement of reunification as an ultimate goal (Article 1) by itself may do little damage; but when taken in context with the current draft's language at two other places, the picture becomes quite different. First there is the explicit endorsement of the language of the 1954 Geneva Accords holding that the 17th Parallel is a temporary truce line, not an international boundary (Article 10). Then there is the express reference (Article 15-d) to the three countries of Indochina -- which in the context of this article are clearly Laos, Cambodia and a unified Vietnam. Any agreement whose language on the reunification issue says only this -- and nothing more --

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turns a blind eye to the fact that there are now two geographically distinct Vietnamese governments -- north and south -- and thus denies one of them, the unmentioned one, the legal right to existence.

7. Hanoi, of course, has an historical point, though not quite the one it or its foreign supporters claim. The 1954 Geneva Accords had many serious defects, of which the language regarding the 17th Parallel's status was one of the worst. In the summer of 1954, it was universally (but wrongly) assumed that the Communists would inevitably soon gain control over all of Vietnam, that resistance to the inevitable by non-Communist Vietnamese under the aegis of someone called Ngo dinh Diem, a virtual unknown recently plucked from a Belgian monastery, was foredoomed to early and total failure. Consequently, the tightness of the Accord's language and implications of its provisions were thought to be of little real consequence, especially since too many of the Geneva Conference's participants -- and both of its principals (France and the DRV) -- the real object of the exercise was to evolve a face-saving formula to cover the withdrawal of the defeated French. Furthermore, the final drafting and negotiation of the 1954 Accord's provisions was rushed to completion to meet the self-imposed public deadline of then French Premier Pierre Mendes-France, with results that we should all remember. The careless language of the 1954 Accords, however, actually laid the groundwork for eighteen years of subsequent struggle and untold human misery, something we should also all remember. The GVN, in particular, will see no cogent reason why demonstrable defects in the 1954 Accords should be repeated or embodied in any 1972 agreement. Saigon will regard the point here involved as crucial -- as to Saigon it clearly has to be. Hence, it will want to insist strongly, with reason, that at a minimum the present language be amplified with some additional language that need not diminish endorsement of the concept of reunification as an ultimate goal but does explicitly acknowledge the fact that the people of South Vietnam have the right to live under their own separate government so long as that is their free choice.

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8. Inspection and Enforcement Provisions. Another area in which the record of the past eighteen years underlines the need for hard headed realism and careful drafting is that of setting up the mechanism through which compliance with any Indochina agreement is to be monitored and complaints from either side about the other's non-compliance adjudicated. The International Control Commission (ICC) mechanism established by the 1954 Geneva Accords, to which the signers of the 1962 "Declaration on the Neutrality of Laos" assigned responsibility for monitoring compliance with the 1962 Laos agreements, has clearly not worked. Indeed, its almost two decade record of ineffective impotence has made the ICC virtually an obscene joke. This has been true in Laos and Cambodia as well as in the two Vietnams. In 1962, the DRV -- along with the other Declaration signatories -- solemnly undertook "in particular" (in Article 2) that it would not:

- "introduce into the Kingdom of Laos foreign troops or military ~~or military~~ personnel in any form whatsoever, nor . . . in any way facilitate or connive at the introduction of any foreign troops or military personnel" [sub-clause (g)]
- "Establish . . . nor in any way facilitate or connive at the establishment in the Kingdom of Laos of any foreign military base, foreign strong point or other foreign military installation of any kind." [sub-clause (h)]
- "Use the territory of the Kingdom of Laos for interference in the internal affairs of other countries." [sub-clause (i)]

The DRV's sole gesture of compliance with these solemn promises -- couched in language even more emphatic and explicit than that appearing in the current draft of the new agreement here considered -- was to rotate twelve North Vietnamese Army troopers through an ICC check-point. The ICC mechanism set up in the 1954 Accords has stood mute in paralyzed impotence in the face of all else the DRV has done in Laos over the past decade. The ICC's track record in Cambodia and, above all, in South Vietnam has been no better.

9. A large part of the blame for the current ICC's sorry record can of course be assigned to the way in which India has seen fit to discharge her responsibilities as Chairman. But even had India chosen to

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act objectively and in good faith, the current ICC would still have been hamstrung by two basic flaws in its structure: the limitations on its freedom of movement and the requirement that it operate under a rule of unanimity. Both of these flaws are repeated in the language of the current draft. The former, by the unamplified requirement that the new ICCS "shall carry out its tasks in accordance with the principle of respect for sovereignty" (Article 13e). The latter, by explicit statement (Article 13 f). Taken together, these limitations imposed in the current draft undercut any realistic hope that the new ICCS this agreement sets up will be any more effective than its predecessor established at Geneva in 1954.

10. From the standpoint of allied interests, particularly GVN interests, the defects in the current draft's language in the new inspection and supervision mechanism reinforce the problems created by that draft's silence with respect to NVA forces now in South Vietnam. It could be, and has been, argued that the draft's silence with respect to these NVA forces in the South has little practical significance since other portions of the agreement will deprive these forces of their Laotian and Cambodian sanctuaries and, above all, their Ho Chi Minh trail lifeline of support through Laos. Given the record of the past eighteen years, however, and particularly given North Vietnam's flagrant and systematic violation over the past decade of the similar provisions of the 1962 Laos "Declaration," the GVN has considerable legitimate ground for considering any such line of argument as transparent sophistry, if those "other provisions" of the current draft agreement are not backed up by an inspection mechanism that has some realistic chance of being effective.

11. The present draft calls for a four member ICCS. With an even number of members, half appointed by each side, the practical difference between operation under majority rule versus unanimity rule is of course negligible (since a 2-2 split estops action). What is clearly required, if the agreement's inspection provisions are to have much practical import in the real world, is a five man commission operating under majority rule. The Communists, incidentally, are already telling their cadre that the agreement does call for a five man ICCS Commission (Poland and Hungary for their side, Canada and Indonesia for ours, with a fifth member who will also serve as chairman to be chosen by mutual agreement among the other four). Thus Hanoi clearly has no great difficulty with accepting a five member commission. It probably has resisted and will strongly resist any endeavor to have any such five member commission

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operate under majority rule; but surely the last eighteen years make it abundantly clear that without majority rule any such commission -- no matter who its members may be -- is doomed to being more decorative than functional. Hanoi would probably also resist (and doubtless has resisted) any language giving such a commission -- particularly any commission with an odd number of fairly picked members operating under majority rule -- freedom of movement and access to locales of the commission's choosing. Once again, however, the grim record of the past eighteen years makes it crystal clear that any such commission has to have such freedom of movement or else the lofty language establishing it will be rendered nugatory.

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II: SUGGESTED TEXTUAL MODIFICATIONS

12. Attached to this memorandum is a copy of the current draft text with suggested language modifications or additions written at the appropriate places in green ink. In my personal opinion, these changes and modifications, collectively, would take care of the problem areas discussed above. They were drafted with an eye to doing no damage whatsoever to the current draft's basic structure and the least possible damage to its text. They were also drafted, however, on a principle that applies universally to all hard bargaining situations -- private, business or official -- namely that one will never get anything from a determined negotiating adversary aggressively protecting his interests that one does not expressly insist on getting. These suggested changes may constitute more than we can get; but we will never get more than we ask for. Hanoi's initial response to all of them will probably be one of indignant outrage and adamant refusal. Hanoi's ultimate response, however, will hinge on matters discussed in this memorandum's next section.

III: THE CHANCES OF OBTAINING IMPROVEMENTS IN THE LANGUAGE OF THE CURRENT DRAFT: PROBABLE RISKS VERSUS PROBABLE GAINS

13. At this writing, Hanoi is clearly trying a squeeze play keyed to its public surfacing of a generally accurate summary of major portions of the current draft agreement. Hanoi is pushing the line that peace is but a US pen stroke away. An agreement exists (according to Hanoi) which President Nixon himself has endorsed; thus the only possible obstacles to peace are the bad faith ("lack of serious good will") of the US and/or the stubborn obstinacy of its puppet, Nguyen van Thieu. If the US does not go through with the agreement it has already accepted, so Hanoi's line runs, and sign the agreed text without any persiflage about further changes, the war will continue and the responsibility for its continuing will rest entirely on the US and/or (again) its puppet Thieu. Some of this is undoubtedly bargaining bluff of a type familiar to anyone who has ever engaged in personal business negotiation such as that involved in, say, buying a house -- the international diplomatic variant of the classic real estate salesman's gambit that the owner is leaving town tonight, he will not accept any further changes in the contract and if that contract is not signed this afternoon, the whole deal is off. Any US decisions on just what further textual changes to press for and how hard to press, however, will obviously be influenced by your and the President's assessment of just how much Hanoi is bluffing.

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14. There are a number of circumstantial signs which collectively suggest that Hanoi's current public posture contains a very large element of bluff, though this thesis cannot be proved beyond reasonable doubt by hard evidence. The whole pattern of Hanoi's post-August behavior suggests that in late August or early September the Lao Dong Politburo went through the anguish of a basic bidding review, which led to the conclusion that the DRV could not indefinitely sustain the totality of pressures to which it was then subject and the basically adverse trends then evident in most (if not all) major aspects of the total current situation. The Politburo (under this hypothesis) therefore resolved to see what could be done to alleviate some of these pressures via negotiations. This decision, in turn, produced Hanoi's late September nibbles in the private Paris sessions and then its 8 October draft proposals.

15. Hanoi's supporters, if not its actual negotiators, probably have advanced or soon will begin advancing (at least by indirect implication) the argument that the tabling of the 8 October proposals, with all that has flowed therefrom, reflects the emergence of a "peace faction" in the Hanoi Politburo. Once advanced, this argument will be promptly elaborated to incorporate the added thesis that the hold and/or position of these Politburo "doves" is tenuous and precarious, that unless their hand is quickly strengthened by a "forthcoming" US response embodied in appropriate US concessions, the Politburo "hawks" will soon regain control and any chances for an early peace thereby go a glimmering. Such a line of argument -- whatever be its superficial plausibility -- is intrinsically suspect because it goes directly against the grain of everything we know about the way the Politburo's members, think, act and perceive political reality. It is most unlikely that there are any "doves" on the Politburo or any "peace faction" therein in the sense of persons questing for peace as an intrinsic end in itself (i. e., a ding an sich). Indeed, ever since the inception of the current phase of the Indochina struggle, or at least our direct involvement in it, perhaps the prime obstacle to settlement has been the fact that we have been questing for peace while Hanoi has been questing for victory. As the last two portions of its 26 October statement clearly indicate, Hanoi is still questing for victory.

16. The goals and ultimate objectives of dictatorships are seldom hard to discern since their leaders are usually quite candid in openly describing them. (Hitler's Mein Kampf is a classic example.) The problem is that such dictatorships' adversaries or putative victims, particularly when the latter are Western liberals, usually refuse to believe that the language in which such goals or objectives is expressed "really means" what it actually

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says and, instead, tend to dismiss it as "rhetoric". (Mein Kampf is also a classic illustration of this point.) There is no mystery or secret about Hanoi's goals and basic objectives. They have often been spelled out, always consistently, most recently in that very 26 October statement which publicized Hanoi's version of the current

peace agreement. These basic goals and objectives of the DRV, toward which all DRV policies are oriented, are (in Hanoi's own 26 October words): "to liberate the south, to defend and build the socialist north, and to proceed to the peaceful reunification of the country".

17. Basic Politburo debates have always been debates over strategy, tactics and priorities -- never goals. Since the temporal sequence of two of these three basic goals -- liberation of the South and reunification -- is dictated by logic in a way that precludes meaningful debate (liberation is logically prior to reunification), the real basic Politburo debate has always been the priority ranking of the goal of liberating the south as opposed to that of defending and building the socialist north. In theory, these goals are co-equal and should be simultaneously pursued. The problem arises, however, when events make it unarguably clear that they cannot be simultaneously pursued and hence pursuit of one must, at least for a time, take precedence over pursuit of the other. This was apparently what happened August or early September. In any such a basic Politburo debate, the protagonists are not "hawks" versus "doves" but -- instead -- "southern struggle firsters" versus "northern base firsters". The leader of the southern struggle faction has always been Le Duan; the leader of the northern base faction, Truong Chinh. (As we have noted in other memoranda, the intensity and character of this basic priority debate is further influenced by the fact that Le Duan now holds what used to be Truong Chinh's post of First Secretary (unless there has been a change in recent weeks), a post Truong Chinh lost because of his identification with another basic party policy that did not work out as planned, namely the 1953-1956 "Land Reform" program.)

18. The whole pattern of Hanoi's behavior since mid-September, plus the fact that Le Duan seems to have dropped at least temporarily out of sight, suggests that the "northern base firsters" have won at least this round of the basic priority debate and are now in the saddle. They are no more doveish, or less hawkish, than the "southern struggle firsters", but they do -- obviously -- order their basic priorities differently. If this reasoning is valid, it yields two highly germane corollaries:

(1) The Politburo is itself anxious to obtain a cessation of allied military pressure, particularly that directed against the north.

(2) The portions of the draft text about which Hanoi really feels strongest, and -- hence -- will most strongly resist any attempted change, are those portions of the text which touch or bear directly on the situation in North Vietnam.

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19. It must be recognized that the above analysis is based largely (though not entirely) on circumstantial evidence. It seems to me to square far better with the observed facts of Hanoi's behavior than any competing alternative, but I would be the first to admit that this does not prove it is valid or right. Nonetheless, if it is valid, three conclusions follow: First, Hanoi's current public posture contains a very large element of bluff. Second, the current draft agreement contains or will soon lead to things the present Hanoi leadership very much wants, i.e., a cessation of destruction in the North followed by economic aid to help in the reconstruction process. Third, while there is certainly no assurance that Hanoi will seriously entertain -- let alone accept -- our proposed textual changes, these changes all affect matters which (under the above analysis) fall into the current Hanoi leadership's second and not its first class of priorities. Hanoi obviously has bargained hard and will continue to do so. It will obviously try to squeeze everything it can out of the final settlement. But the fact that the changes we want fall in areas the present Hanoi leadership considers of less importance than the areas not touched by these changes gives us a certain amount of bargaining leverage that we can exploit.

20. There is also one other point of a different order than those just discussed, but nonetheless a point that should not be lost sight of. If the past two months' shift in Hanoi's negotiating strategy does indeed reflect a shift in Politburo power relationships, the new leadership -- particularly Truong Chinh -- is not going to be too averse to any developments that denigrate the old -- particularly Le Duan -- provided no interests vital to the new leadership are sacrificed in the process. The Politburo and its negotiators have a delicate line to walk here. Obviously they will try hard and genuinely to get the best deal they possibly can for their southern organization -- Le Duan's creation. Still, if its interests have to suffer in the final settlement, this can always be blamed on the erroneous strategies adopted by the "southern struggle firsters", i.e., Le Duan, when they were calling the tune. The blame, hence, need not be accepted by those in Hanoi who approve the final settlement, including any further language changes. Instead, it can be deflected to those whose errors created a situation that made a negotiated settlement necessary.

IV. POSSIBLE TACTICS

21. If it is decided to push for modification and changes in the current text along the lines here suggested, the following tactics might help facilitate achievement of this objective.

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a. Hanoi will clearly remain adamant (as any good bargainer would in an adversary negotiation) so long as it thinks we are under the time pressures of a fast approaching deadline. Therefore, the first hurdle we need to get over is 7 November -- not in the sense that no further discussion should take place before 7 November but in the sense that Hanoi should be made to believe that while we will move to settlement as quickly as possible, we are not tied to any calendar date but are adamant on having the final agreement's language incorporate certain changes from the present draft that we consider essential. Hanoi will bluster, but since the last thing Hanoi wants is four more years of an unfettered President Nixon, the pressure engendered by such a US posture would be considerable.

b. If our analysis of the rationale behind Hanoi's current course of action is correct, the thing the present Politburo leadership is most anxious to achieve is a diminution of physical attacks against North Vietnam, i.e., the bombing. The Vietnamese Communist leadership does not respond as we would to conciliatory gestures -- these, instead, are almost invariably regarded by Hanoi as a sign of weakness on the part of those who extend them. If Hanoi can get the bombing appreciably eased by the simple expedient of talking, its inducement to be forthcoming on issues blocking final settlement will be proportionately and appreciably reduced. Thus, the bombing program constitutes something through which signals of the kind Hanoi is most likely to understand can be pointedly conveyed.

c. Our posture in tabling and insisting upon the linguistic changes we want can perhaps best be one of polite obduracy. With respect to the changes bearing on the status of the NCNRC Commission, we can simply (and accurately) insist that our changes do nothing but conform text to what both sides have orally agreed is common intent. The changes giving South Vietnam a legal right to existence are trickier, but they can be defended as an insistence on describing current reality, not a quest for future advantage. The requested changes in the mechanics of inspection and supervision can be justified as necessitated by the record of Hanoi's behavior over the past eighteen years. Language on the NVA forces in South Vietnam will be the hardest of all to get accepted; but here we can simply be adamant on the agreement's reflecting current reality and gauge from Hanoi's negotiators' reactions how willing they might be to swallow this bitterest of pills in order to get the other things they want.

George A. Carver, Jr.

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[OPTION FOR TWO PARTY SIGNING]

AGREEMENT ON ENDING THE WAR

AND

RESTORING PEACE IN VIETNAM

The Government of the United States of America, with the concurrence of the Government of the Republic of Vietnam;

The Government of the Democratic Republic of Vietnam, with the concurrence of the Provisional Revolutionary Government of the Republic of South Vietnam;

With a view to ending the war and restoring peace in Vietnam on the basis of respect for the Vietnamese people's fundamental national rights and the South Vietnamese people's right to self-determination, including their right to determine their own political future, and to contributing to the consolidation of peace in Asia and the world;

Have agreed on the following provisions and undertake to respect and to implement them:

[OPTION FOR FOUR PARTY SIGNING]

AGREEMENT ON ENDING THE WAR

AND

RESTORING PEACE IN VIETNAM

The Government of the United States of America and the Government of the Republic of Vietnam with the concurrence of those other countries allied with them on the one hand, and the Government of the Democratic Republic of Vietnam and the Provisional Revolutionary Government of the Republic of South Vietnam, on the other hand;

With a view to ending the war and restoring peace in Vietnam on the basis of respect for the Vietnamese people's fundamental national rights and the South Vietnamese people's right to self-determination *and free political choice* and to contributing to the consolidation of peace in Asia and the world;

Have agreed on the following provisions and undertake to respect and to implement them:

Chapter I

THE VIETNAMESE PEOPLE'S
FUNDAMENTAL NATIONAL RIGHTS

Article 1. - The United States respects the independence, sovereignty, unity, and territorial integrity of Vietnam as recognized by the 1954 Geneva Agreements on Vietnam.

> The United States and the Democratic Republic of Vietnam, however, both also respect the right of the people of South Vietnam to determine by their own free choice the shape form and manner of their peaceful political relations with the government and people of the Democratic Republic of Vietnam.

Chapter II

CESSATION OF HOSTILITIES - WITHDRAWAL OF TROOPS

Article 2. - A ceasefire shall be observed throughout South Vietnam as of _____ hours (Indochina time), on _____, 1972, i. e. _____ hours G. M. T., on _____, 1972.

At the same hour, the United States will stop all its military activities against the territory of the Democratic Republic of Vietnam by ground, air and naval forces, wherever they may be based, and end the mining of the territorial waters, ports, harbors, and waterways of the Democratic Republic of Vietnam. The United States will remove, * permanently deactivate or destroy all the mines in the territorial waters, ports, harbors, and waterways of North Vietnam as soon as this agreement goes into effect.

The complete cessation of hostilities mentioned in this Article shall be durable and without limit of time.

Article 3. - The Parties undertake to maintain the ceasefire and to ensure a lasting and stable peace. As soon as the ceasefire goes into effect:

a) The United States forces and those of the other foreign countries allied with the United States and with the Republic of Vietnam shall remain in place pending the implementation of the plan of troop

* No Approved For Release 2004/06/14 : CIA-RDP80R01720R000400090034-8
General Haig.

b) The Democratic Republic of Vietnam will undertake to ensure that none of its citizens engages in military activity anywhere in South Vietnam either privately as a volunteer or in any other capacity.

withdrawal. The Four-Party Joint Military Commission described in Article 11 shall determine the modalities.

c) The armed forces of the two South Vietnamese parties shall remain in-place. The Two-Party Joint Military Commission described in Article 12 shall determine the areas controlled by each party and the modalities of stationing.

d) The regular forces of all services and arms and the irregular forces of the parties in South Vietnam shall stop all offensive activities against each other and shall strictly abide by the following stipulations:

- All acts of force on the ground, in the air, and on the sea shall be prohibited;
- All hostile acts, terrorism and reprisals by both sides will be banned.

Article 4. - The United States will not continue its military involvement or intervene in the internal affairs of South Vietnam.

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Article 5. - Within sixty days of the signing of this agreement, there will be a total withdrawal from South Vietnam of troops, military advisers, and military personnel, including technical military personnel and military personnel associated with the pacification program, armaments, munitions, and war material of the United States and those of the other foreign countries allied with the United States and with the

Article 5. Pending a peaceful reunification of Vietnam effected by the free choice of Vietnam, the Democratic Republic of Vietnam will take appropriate steps to ensure that none of its citizens engages in military or political activities within South Vietnam.

The sole exception to this provision will be that pending the reapproval of the Provisional Revolutionary Government of South Vietnam, the government of South Vietnam may have a normal and appropriate complement of foreign military personnel assigned those embassies, customary guard forces or the offices of their duly accredited military attaches. Republic of Vietnam. Advisers from the above-mentioned countries

to all paramilitary organizations and the police forces will also be withdrawn within the same period of time.

Article 6. - The dismantlement of all military bases of the United States and those of the other foreign countries allied with the United States and with the Republic of Vietnam in South Vietnam shall be completed within sixty days of the signing of this agreement.

Article 7.^a - From the enforcement of the ceasefire to the formation of the government provided for in Articles 9b) and 9i) of this agreement, the two South Vietnamese parties shall not accept the introduction of troops, military advisers, and military personnel including technical military personnel, armaments, munitions, and war material into South Vietnam from any place or source outside of South Vietnam.

The two South Vietnamese parties shall be permitted to make periodical replacements of armaments, munitions and war material which have been worn out or damaged after the ceasefire, on the basis of piece-for-piece, of the same characteristics and properties, under the supervision of the Joint Military Commission of the two South Vietnamese parties and of the International Commission of Control and Supervision, who will be formally notified in advance of either South Vietnamese party's desire or intention to receive such replacement armaments, munitions and war material.

Article 8. The Democratic Republic of Vietnam will take appropriate steps to ensure that any of its citizens who may have chosen to serve in any military or civil capacity with forces supporting the cause of the Provisional Revolutionary Government of the Republic of South Vietnam will return as expeditiously as possible to the territory of the Democratic Republic of Vietnam, i.e. that portion of Vietnam lying north of the 17th parallel North latitude.

Chapter III

THE RETURN OF CAPTURED MILITARY PERSONNEL
AND FOREIGN CIVILIANS OF THE PARTIES

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Article 8. - a) The return of captured military personnel and foreign civilians of the parties shall be carried out simultaneously with and completed on the same day as the troop withdrawal mentioned in Article 5. The parties shall exchange complete lists of the above-mentioned captured military personnel and foreign civilians on the day of the signing of this agreement.

b) The parties shall help each other to get information about those captured military personnel and foreign civilians of the parties missing in action, to determine the location and take care of the graves of the dead so as to facilitate the exhumation and repatriation of the remains, and to take any such other measures as may be required to get information about those still considered missing in action.

c) The question of other Vietnamese civilian personnel detained in South Vietnam and not covered by 8 a) above will be resolved by the South Vietnamese parties on the basis of the principles of Article 21 b) of the agreement on the cessation of hostilities in Vietnam of July 20, 1954. The South Vietnamese parties will do so in a spirit of national reconciliation and concord, with a view to ending hatred and enmity, in order to ease suffering and to reunite families.

The two South Vietnamese parties will do their utmost to resolve this question within three months after the ceasefire comes into effect.

c) The South Vietnamese people shall also make their own free and approved for release 2004/06/14 : CIA-RDP80R01720R000400090034-8 their peaceful relations with the government and people of the Democratic Republic of Vietnam and regarding the modalities and timing of eventual reunification. Chapter IV

THE EXERCISE OF THE SOUTH VIETNAMESE PEOPLE'S
RIGHT TO SELF-DETERMINATION

Article 9. - The Government of the United States of America and the Government of the Democratic Republic of Vietnam undertake to respect the following principles for the exercise of the South Vietnamese people's right to self-determination:

a) The South Vietnamese people's right to self-determination is sacred, inalienable, and shall be respected by all countries.

b) The South Vietnamese people shall decide themselves the political future of South Vietnam through genuinely free and democratic general elections under international supervision.

→→→ d) The two South Vietnamese parties undertake to respect the ceasefire and maintain peace in South Vietnam, settle all matters of contention through negotiations, and avoid all armed conflict.

e) The United States declares that it respects the South Vietnamese people's right to self-determination; it is not committed to any political tendency or to any personality in South Vietnam; and it does not seek to impose a pro-American government in Saigon.

→→→ g) Immediately after the ceasefire, the two South Vietnamese parties will:

f) The Democratic Republic of Vietnam also declares that it respects the South Vietnamese people's right to self-determination, including the determination of the manner and form of their peaceful relations with the government and people of the Democratic Republic of Vietnam. Approved for release 2004/06/14 : CIA-RDP80R01720R000400090034-8

- achieve national reconciliation and concord; end hatred and enmity; prohibit all acts of reprisal and discrimination against individuals or organizations that have collaborated with one side or the other;

- ensure the democratic liberties of the people: personal freedom, freedom of speech, freedom of the press, freedom of meeting, freedom of organization, freedom of political activities, freedom of belief, freedom of movement, freedom of residence, freedom of work, right to property ownership, and right to free enterprise.

✓ f) Immediately after the ceasefire, the two South Vietnamese parties shall hold consultations in a spirit of national reconciliation and concord, mutual respect, and mutual non-elimination ^{and determine the functions of} to set up an administrative structure ^{*} called the National Council of National Reconciliation and Concord of three equal segments. The Council shall operate on the principle of unanimity. After the National Council of National Reconciliation and Concord has assumed its functions, the two South Vietnamese parties will consult about the formation of councils at lower levels. The two South Vietnamese parties shall sign an agreement on the internal matters of South Vietnam as soon as possible and do their utmost to accomplish this within three months.

* Vietnamese text should use the term "hau Chinh".
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after the ceasefire comes into effect, in keeping with the South Vietnamese people's aspirations for peace, independence and democracy.

g) The National Council of National Reconciliation and Concord shall have the task of promoting the two South Vietnamese parties' implementation of the signed agreements, maintenance of the ceasefire, preservation of peace, achievement of national reconciliation and concord and ensuring of democratic liberties. The National Council of National Reconciliation and Concord will handle the details of organizing ~~organize~~ the free and democratic general elections provided for in Article 9 b) and decide the procedures and modalities of these elections. The institutions for which the general elections are to be held will be agreed upon through consultations between the two South Vietnamese parties. The National Council of National Reconciliation and Concord will also decide the procedures and modalities of such local elections as the two South Vietnamese parties agree upon.

~~h)~~ h) The question of Vietnamese armed forces in South Vietnam shall be settled by the two South Vietnamese parties in a spirit of national reconciliation and concord, equality and mutual respect, without from anywhere outside of South Vietnam, ~~foreign interference~~ in accordance with the postwar situation. Among the questions to be discussed by the two South Vietnamese parties are steps to reduce the military numbers on both sides and to demobilize the troops being reduced.

-10-

i) South Vietnam will pursue a foreign policy of peace and independence. It will respect the military provisions of the 1954 Geneva Agreements on Vietnam which prohibit the joining of any military alliance or military bloc or the maintenance by foreign powers of military bases, troops, military advisers and military personnel on its territory. It will maintain relations with all countries irrespective of their political or social systems and accept economic and technical aid from any country with no political conditions attached. The acceptance of military aid by South Vietnam in the future shall come under the authority of the government set up after the general elections in South Vietnam.

In particular, its relations with the Democratic Republic of Vietnam -- pending eventual reunification -- will be conducted in a reciprocal spirit of peaceful amity and non-interference in each other's internal affairs.

Chapter V

THE REUNIFICATION OF VIETNAM AND THE RELATIONSHIP
BETWEEN SOUTH AND NORTH VIETNAM

12
Article 10. - As stipulated in the 1954 Geneva Agreements on Vietnam, the military demarcation line at the 17th parallel is only It is not conceived as a permanent provisional ~~and not a~~ political or territorial boundary.

7 Any ~~The~~ reunification of Vietnam shall be carried out step by step through peaceful means, on the basis of discussions and agreements between North and South Vietnam, without coercion or annexation by either party, and without foreign interference. The time ~~for~~ and modalities of eventual peacefully and reciprocally reunification will be agreed upon by North and South Vietnam.

Pending reunification, South and North Vietnam shall promptly start negotiations toward the reestablishment of normal relations in various fields.

Neither South Vietnam nor North Vietnam shall
A Pending reunification, ~~South and North Vietnam shall not join~~ join
nor will either
any military alliance or military bloc and ~~shall not~~ allow foreign powers to maintain military bases, troops, military advisers, and military personnel on their respective territories, as stipulated in the 1954 Geneva Agreements on Vietnam. *

* Check to see if an and foreign embassy guard clause is here required for both countries.

Chapter VI

THE JOINT MILITARY COMMISSIONS,
THE INTERNATIONAL COMMISSION
OF CONTROL AND SUPERVISION,
THE INTERNATIONAL CONFERENCE

13

Article 11. -a) The Government of the United States of America, the Government of the Republic of Vietnam, the Government of the Democratic Republic of Vietnam and the Provisional Revolutionary Government of the Republic of South Vietnam shall immediately designate representatives to form a Four-Party Joint Military Commission with the task of ensuring joint action by the parties in implementing the following provisions of this agreement:

- The first paragraph of Article 2, regarding the enforcement of the ceasefire throughout South Vietnam.

- Article 3 a), regarding the ceasefire by U.S. forces and those of the other foreign countries allied to the United States and the Republic of Vietnam.

7
- Article 3 d), regarding the ceasefire between all parties in South Vietnam.

- Article 5 regarding the withdrawal from South Vietnam of U.S. troops and those of the other foreign

Article 3 b) regarding the non-participation in any form of military activity within South Vietnam by any citizen of the Democratic Republic of Vietnam.

countries allied with the United States and with the Republic of Vietnam.

7

- Article 8, regarding the dismantlement of military bases in South Vietnam of the United States and those of the other foreign countries allied with the United States and with the Republic of Vietnam.

10

- Article 8, regarding the return of captured military personnel and foreign civilians of the parties.

b) The four-party Joint Military Commission shall operate in accordance with the principle of consultations and unanimous agreement. Disagreements shall be referred to the International Commission of Control and Supervision.

c) The four-party Joint Military Commission shall begin operating immediately after the signing of this agreement and end its activities after the implementation of the first paragraph of Article 2, Articles 3a) and 3c), and Articles 5, 6 and 8 of this agreement.

d) The four parties shall agree immediately on the organization, the working procedure, means of activity, and expenditures of the four-party Joint Military Commission.

14

Article 12. - The Government of the Republic of Vietnam and the Provisional Revolutionary Government of the Republic

- Article 8, regarding the return to the territory of the Democratic Republic of Vietnam of any citizens of the Democratic Republic of Vietnam or any capacity with forces supporting the cause of the Provisional Revolutionary Government of the Republic of South Vietnam.

of South Vietnam shall immediately designate representatives to form a Joint Military Commission composed of the two South Vietnamese parties with the task of ensuring joint action by the two South Vietnamese parties in implementing the following provisions of this agreement concerning the two parties:

- The first paragraph of Article 2, regarding the enforcement of the ceasefire throughout South Vietnam, when the Four Party Joint Military Commission has ended its activities.

- Article 3b), regarding the ceasefire between the South Vietnamese parties.

- Article 3c), regarding the ceasefire between all parties in South Vietnam, when the Four Party Joint Military Commission has ended its activities.

- Article 7, regarding the introduction of troops into South Vietnam and all its other provisions.

- Article 9 b), regarding the question of Vietnamese armed forces in South Vietnam.

Disagreements shall be referred to the International Commission of Control and Supervision. After the signing of this agreement, the two-party Joint Military Commission shall agree immediately on the measures and the organization aimed at enforcing the ceasefire and preserving peace in South Vietnam.

Article 13. -a) After the signing of this agreement, an International Commission of Control and Supervision shall be established immediately.

b) Until the international guarantee conference makes definitive arrangements, the International Commission of Control and Supervision will report to the four parties on matters concerning the control and supervision of the implementation of the following provisions of this agreement:

- The first paragraph of Article 2, regarding the enforcement of the ceasefire in South Vietnam.

- Article 3a), regarding the ceasefire by U.S. forces and those of the other foreign countries allied to the United States.

- Article 3c), regarding the ceasefire between all the parties in South Vietnam.

- Article 5, regarding the withdrawal from South Vietnam of U.S. troops and those of the other foreign countries allied with the U.S. and with the Republic of Vietnam.

7

- Article 7, regarding the dismantlement of military bases in South Vietnam of the United States and those of the other foreign countries allied with the U.S. and with the Republic of Vietnam.

- Article 8, regarding the return to the territory of the Democratic Republic of Vietnam of any of the latter's citizens who may have chosen to serve with forces supporting the cause of the Provisional Revolutionary Government of the Republic of South Vietnam.

10

- Article 8, regarding the return of captured military personnel and foreign civilians of the parties.

The International Commission of Control and Supervision shall form control teams for carrying out its tasks. The four parties shall agree immediately on the location and operation of these teams. The parties will facilitate their operation.

c) Until the international guarantee conference makes definitive arrangements, the International Commission of Control and Supervision will report to the two South Vietnamese parties for the control and supervision of the implementation of the following provisions of this agreement:

- The first paragraph of Article 2, regarding the enforcement of the ceasefire throughout South Vietnam.

- Article 3 b), regarding the ceasefire between the South Vietnamese parties.

- Article 3 c), regarding the ceasefire between all parties in South Vietnam, when the Four Party Joint Military Commission has ended its activities.

- Article 7, regarding the introduction of troops into South Vietnam and all its other provisions.

- Article 8 b), regarding the free and democratic general elections in South Vietnam.

11
- Article 11 h), regarding any agreements reached between the two Vietnamese parties on the reduction of military numbers of the Vietnamese armed forces in South Vietnam and the demobilization of troops being reduced.

The International Commission of Control and Supervision shall form international control teams for carrying out these tasks. The two South Vietnamese parties shall agree immediately on the location and operation of these teams. The parties will facilitate their operation.

d) The International Commission of Control and Supervision shall be composed of representatives of ~~four~~ ^{five} countries:

Canada, Hungary, Indonesia and Poland. [The chairmanship of this

Commission will rotate among the members for specific periods to

be determined by the Commission.]

A fifth country will be chosen by unanimous consent of the representatives of these four countries and that fifth country's representative will be the Commission's Chairman

e) The International Commission of Control and

Supervision shall carry out its tasks in accordance with the

principle of respect for sovereignty,

but the Commission may nonetheless dispatch its control teams to any place in Indochina at that the Commission deems necessary for any length of time the Commission deems necessary.

f) The International Commission of Control and

Supervision shall operate in accordance with the principle of consulta-

tions and majority rule.

g) The International Commission of Control and

Supervision shall begin operating when a ceasefire comes into

force in Vietnam. As regards the provisions in Article 13b) concerning the four parties, the International Commission of Control and Supervision shall end its activities when the Commission's tasks of control and supervision regarding these provisions have been fulfilled. As regards the provisions in Article 13 c) concerning the two South Vietnamese parties, the International Commission of Control and Supervision shall end its activities on the request of the government formed after the general elections provided for in Article 9 b).

h) The four parties shall agree immediately on the organization, means of action, and expenditures of the International Commission of Control and Supervision. The relationship between the International Commission and the international guarantee conference will be agreed upon by the International Commission and the international conference.

¹⁶
Article 14. - The parties agree on the convening of an international conference within 30 days of the signing of this agreement to acknowledge the signed agreements; to guarantee the ending of the war, the maintenance of peace in Vietnam, the respect of the Vietnamese people's fundamental national rights, and the South Vietnamese people's right to self-determination and free choice regarding their own political future; and to contribute to and guarantee peace in Indochina.

The United States and the Democratic Republic of Vietnam will propose to the following parties that they participate in this international conference: the Union of Soviet Socialist Republics, the People's Republic of China, France, the United Kingdom, the four countries of the International Commission of Control and Supervision, and the Secretary General of the United Nations, together with ^{four}~~the~~ parties to the Paris Conference on Vietnam.

all ^

Chapter VII

CAMBODIA AND LAOS

Article 15. -a) The Government of the United States of America, the Government of the Republic of Vietnam, the Government of the Democratic Republic of Vietnam, and the Provisional Revolutionary Government of the Republic of South Vietnam shall strictly respect the Cambodian and the Lao peoples' fundamental national rights as recognized by the 1954 Geneva Agreements on Indochina and the 1962 Geneva Agreements on Laos, i.e. the independence, sovereignty, unity, and territorial integrity of these countries. They shall respect the neutrality of Cambodia and Laos.

The Government of the United States of America, the Government of the Republic of Vietnam, the Government of the Democratic Republic of Vietnam, and the Provisional Revolutionary Government of the Republic of South Vietnam undertake to refrain from using the territory of Cambodia and the territory of Laos to encroach on the sovereignty and security of other countries, *including all parts of Vietnam -- North or South.*

^{All}
b) Foreign countries shall put an end to all military activities in Laos and Cambodia, totally withdraw from and refrain from reintroducing into these two countries troops, military advisers and military personnel, armaments, munitions and war material.

c) The internal affairs of Cambodia and Laos shall be settled by the people of each of these countries without foreign interference.

d) The problems existing between the ~~three~~ Indo-chinese countries shall be settled by the Indochinese parties on the basis of respect for each other's independence, sovereignty, and territorial integrity, and non-interference in each other's internal affairs. As of the date of this agreement there are four Indochinese countries. There will be three such countries when the people of North Vietnam and the people of South Vietnam freely decide to ~~unite~~ unite in a form, manner and time frame of their own uncoerced choosing.

Chapter VIII

THE RELATIONSHIP BETWEEN
THE UNITED STATES OF AMERICA AND
THE DEMOCRATIC REPUBLIC OF VIETNAM

Article 16. - The United States expects that this agreement will usher in an era of reconciliation with the Democratic Republic of Vietnam as with all the peoples of Indochina. In pursuance of its traditional policy, the United States will contribute to healing the wounds of war and to post-war reconstruction of the Democratic Republic of Vietnam and throughout Indochina.

Article 17. - The ending of the war, the restoration of peace in Vietnam, and the strict implementation of this agreement will create conditions for establishing a new, equal, and mutually beneficial relationship between the Democratic Republic of Vietnam and the United States on the basis of respect for each other's independence and sovereignty, and non-interference in each other's internal affairs. At the same time it will ensure stable peace in Vietnam and contribute to the preservation of lasting peace in Indochina and Southeast Asia.

Chapter IX

OTHER PROVISIONS

Article 18. - This agreement shall come into force as of its signing. It will be strictly implemented by all the parties concerned.

Done in _____ on _____, 1972,
in Vietnamese and English. The Vietnamese and the English
texts are official and equally authentic. Subsequently a French
text will be prepared for reference.